

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Matthew Bernstein, : Civil Action No.: _____
Plaintiff, :
v. :
SL Lounge Corp., : **COMPLAINT**
Defendant. :
:
:

For this Complaint, Plaintiff, Matthew Bernstein, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Matthew Bernstein ("Plaintiff"), is an adult individual residing in New York, New York, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, SL Lounge Corp. ("SL Lounge"), is a business entity located in Elmhurst-Queens, New York, and is a "person" as defined by 47 U.S.C. § 153(39).

ALLEGATIONS APPLICABLE TO ALL COUNTS

5. On or about May 27, 2015, SL Lounge began sending text messages to Plaintiff's cellular telephone, number 516-xxx-8843. Pictures of the text messages Plaintiff received from SL Lounge are attached hereto as Exhibit A.

6. Plaintiff never provided his cellular telephone number to SL Lounge and never consented to receive text messages from SL Lounge.

7. Upon information and belief, SL Lounge sends text messages using an automatic telephone dialing system (“ATDS”) pursuant to 47 U.S.C. § 227(a)(1).

8. On or about October 29, 2015, Plaintiff replied “stop” to the text messages.

9. Nevertheless, SL Lounge continued to send automated text messages to Plaintiff’s cellular telephone number.

COUNT I
VIOLATIONS OF THE TCPA –
47 U.S.C. § 227, et seq.

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. Without prior express consent, SL Lounge sent automated text messages to Plaintiff’s cellular telephone number using an ATDS.

12. The telephone number was assigned to a cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

13. The texts from SL Lounge to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

14. SL Lounge’s telephone system has the capacity to store numbers in a random and sequential manner.

15. As a result of each text made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. SL Lounge continued to send automated text messages to Plaintiff’s cellular telephone number despite knowing that it lacked consent to do so.

17. As a result of each text made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendant as follows:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: May 19, 2016

Respectfully submitted,

By /s/ Sergei Lemberg
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